

(S. B. 1433)
(Conference)

(No. 159-2015)

(Approved September 30, 2015)

AN ACT

To amend Sections 1022.03, 1023.25, 1033.14, 1033.17, 1034.01, 1040.06, 1051.13, 1061.15, 1101.01, 1102.06, 1115.02, 3020.07, 3020.07A, 3030.15, 3060.11, 4010.01, 4020.01, 4020.02, 4020.04, 4030.20, 4050.09, 4070.01, 4110.01, 4120.03, 4150.02, 4180.01, 4180.02, 4210.01, 4210.02, 4210.03, 6043.04, 6051.07, and 6080.14, and add a new Section 1051.14 and a new Subchapter F to Chapter 4 of Subtitle F of Act No. 1-2011, as amended; amend paragraph (1) of subsection (a) of Section 6.08 of Act No. 255-2002, as amended; amend subsection (c) of Section 23.0 of Act No. 239-2004, as amended; and amend Sections 1 and 3 of Act No. 42-2015, as amended, in order to make technical amendments to clarify the scope and content; and for other related purposes.

STATEMENT OF MOTIVES

This Administration is committed to ensure that the tax provisions in effect are consistent with the legislative intent and that are not subject to inconsistent interpretations that may have a negative effect on our people and the development of our economic activity. For such reason, this Legislative Assembly deems it pertinent to promote the following technical amendments in order to clarify their scope and content.

With the approval of Act No. 72-2015, there was created in Puerto Rico an integrated tax system that incorporates the virtues of the general excise tax and the Sales and Use Tax to reach the optimum point of a Value-Added Tax. Act No. 72, *supra*, increased the Sales and Use Tax through March 31, 2016 as a transitional measure towards the new Subtitle DD of the “Internal Revenue Code of 2011” (hereinafter, the “Code”) on the Value-Added Tax, which shall take effect on

April 1, 2016. This measure proposes several amendments to the provisions of the Code in order to clarify their application and content as a result of the amendments introduced to the Code under Act No. 72-2015.

The main goal of this Legislative Assembly has always been to enact legislation that guarantees the resources needed for government operations. However, we must not lose perspective of the importance of providing stability and promoting the island as an ideal business destination.

In addition to the discussed amendments, this measure incorporates other technical amendments to clarify ambiguities and the wording of other tax provisions.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF PUERTO RICO:

Section 1.- Clause (iii) of subparagraph (A) of paragraph (2) of subsection (b) as well as subsection (f) of Section 1022.03 of Act No. 1-2011, as amended, are hereby amended to read as follows:

“Section 1022.03.- Alternative Minimum Tax Applicable to Corporations.-

(a) ...

(b) Tentative Minimum Tax.- For purposes of this Section, the term ‘tentative minimum tax’ for the taxable year shall be the greater of:

(1) ...

(2) The sum of the following:

(A) Twenty percent (20%) of:

(i) ...

(ii) ...

(iii) However, the Secretary may evaluate, under such rules and regulations as he/she promulgates and at the request of the taxpayer, which shall be submitted within the first taxable year included in the request, the nature of the expenses or costs paid to a related party or home office in order to

determine if any of such expenses or costs shall be exempt from the twenty percent (20%)-tax imposed in this clause, provided, that such exemption shall apply only for a maximum of three (3) taxable years; however, the taxpayer shall be entitled to submit a request for subsequent terms after such term has expired, and that, for taxable years beginning after December 31, 2014, the total expenses that may be excluded from the provisions of this clause shall not exceed sixty percent (60%) of the total expenses subject to said rate, except in the case of entities subject to the provisions of Act No. 55 of May 12, 1933, known as the ‘Banking Law’ or entities organized or authorized under the National Bank Act doing business in Puerto Rico, which may exclude up to one hundred percent (100%) of the expenses subject to the rate provided in this clause as determined by the Secretary,

(B) ...

(C) ...

(c) ...

...

(f) Any dispensation, administrative determination or final agreement entered into or issued by the Secretary in relation to the tentative minimum tax shall continue in effect during the taxable years for which they were entered into or issued. If a dispensation applies to taxable years beginning after December 31, 2014, the applicable rate under subsection (b)(2)(B) of this Section shall be that established in the dispensation or that resulting from said subsection, at the option of the taxpayer. The Secretary shall not issue, after May 28, 2015, new administrative determinations or final agreements in relation to the item established in subsection (b)(2)(B) of this Section for taxable years beginning after December 31, 2014.”

Section 2.- A new paragraph (3) is hereby added and current paragraph (3) is hereby renumbered as paragraph (4) of subsection (a); a new paragraph (3) is hereby added and current paragraph (3) is hereby renumbered as paragraph (4) of subsection (b); and subsection (c) of Section 1023.05 of Act No. 1-2011, as amended, is hereby amended to read as follows:

“Section 1023.25.- Special Dividend Distribution Tax and Prepayment of the Special Tax on Deemed Distributions.-

(a) Tax Applicable to Dividend Distributions during the Temporary Period.-

(1) ...

(2) ...

(3) Special Eight Percent (8%)-Tax.- Any dividend distribution carried out during the period comprised between October 1, 2015 and December 31, 2015 shall be subject to a special eight percent (8%)-tax on the total amount received by a stockholder in lieu of any other tax imposed by the Code, or any other law substituting the Code, including the alternative minimum tax and the alternate basic tax. Provided, that it shall not be necessary for the taxpayer to file the distribution described in this paragraph along with his/her income tax return insofar as such taxpayer pays the tax in the forms provided by the Secretary for such purposes. The special tax provided in this paragraph shall not apply to taxpayers that are subject to the provisions of Section 1022.03(b)(2)(B) of this Code.

(4) ...

(b) Tax Applicable to Deemed Distributions.- Any corporation has, within the terms provided in subsection (a) of this Section, the authority to designate as deemed distribution, up to the total amount of accumulated earnings

and profits, subject to the special tax provided in subsection (a) of this Section, without being required to distribute the same during the temporary period.

(1) ...

(2) ...

(3) Any corporation that designates an amount as deemed distribution and submits the election and payment after September 30, 2015 and not later than December 31, 2015, may avail itself of the special eight percent (8%)-tax. Provided, that it shall not be necessary for the taxpayer to file the distribution described in this paragraph along with his/her income tax return insofar as such taxpayer pays the tax in the forms provided by the Secretary for such purposes. The special tax provided in this paragraph shall not apply to taxpayers that are subject to the provisions of Section 1022.03(b)(2)(B) of this Code.

(4) Any corporation that designates an amount as deemed distribution subject to the tax under Section 1062.13 and submits the election and payment during the terms established in paragraphs (1), (2), and (3) of this subsection, may reduce the amount of earnings and profits as provided in Section 1062.13 of the Code.

(c) Election and Payment.- Election and payment of the special tax provided in subsections (a)(1) and (b)(1) of this Section shall be made not later than April 30, 2015; the option and payment of the special tax provided in subsections (a)(2) and (b)(2) of this Section shall be made not later than June 30, 2015; the election and payment of the special tax provided in subsections (a)(3) and (b)(3) of this Section shall be made not later than December 31, 2015, by completing the form provided by the Secretary for such purposes. The tax shall be paid in the Internal Revenue Collections Centers of the Department of the

Treasury. It shall be the responsibility of the taxpayer to keep proof of the prepayment form.

(d) ...”

Section 3.- Subparagraph (D) of paragraph (1) is hereby amended and second paragraph (1) is hereby renumbered as paragraph (2) of subsection (b) and subsection (c) of Section 1033.14 of Act No. 1-2011, as amended, is hereby amended to read as follows:

“Section 1033.14. – Net Operating Loss Deductions.–

(a) ...

(b) Amount of Carryovers. –

(1) Net Operating Loss Carryovers.-

(A) ...

...

(D) The amount to be carried over to each one of said following taxable years shall be the excess, if any, of the amount of such net operating loss over the sum of the net income for each of the taxable years involved, provided, that for taxable years beginning after December 31, 2012, and before January 1, 2015, it shall be ninety percent (90%) of the net income and for taxable years beginning after December 31, 2014, it shall be eighty percent (80%) of the net income, computing such net income:

(i) with the exceptions, additions and limitations provided in subsection (d), (1), (3), (5), and (6); and

(ii) ...

(2) ...

(c) Amount of Net Operating Loss Deduction.- The amount of the net operating loss deduction shall be the sum of the net operating loss carried over to the taxable year reduced by the amount, if any, by which the net income computed with the exceptions and limitations provided in subsection (d)(1), (2), (3), (5) and (6) exceeds, in the case of a taxpayer other than a corporation, the net income

computed without such deduction or, in the case of a corporation, the net income subject to normal tax computed without said deduction.

In the case of a taxpayer filing as a corporation, the net operating loss deduction (computed as provided in the above paragraph) shall not exceed: (i) ninety percent (90%) of the net income subject to normal tax for taxable years beginning after December 31, 2012, but before January 1, 2015; and (ii) eighty percent (80%) of the net income, for taxable years beginning after December 31, 2014.

(d) ...”

Section 4.- Subparagraph (E) of paragraph (16), subparagraph (D) of paragraph (17), paragraph (19) and paragraph (20) of subsection (a) of Section 1033.17 of Act No. 1-2011, as amended, are hereby amended to read as follows:

“Section 1033.17.- Non-deductible Items.-

(a) General Rule. – In computing the net income, in no case shall deductions be allowed with respect to:

(1) ...

...

(16) In the case of entities filing under Chapter 7 or Subchapters D or E of Chapter 11 of Subtitle A, for purposes of determining the item specified in:

(A) ...

...

(E) The Secretary may evaluate, under the rules and regulations he/she promulgates, at the request of the entity, which shall be submitted within the first taxable year included in the request, the nature of the expenses or costs paid to a partnership, stockholder, or member described in subparagraph (C) of this paragraph, in order to determine if any of such expenses or costs shall be excluded from the provisions of this paragraph; provided, that

such exclusion shall apply only for a maximum of three (3) taxable years; however, the taxpayer shall be entitled to submit a request for subsequent terms after such term has expired, and that, for taxable years beginning after December 31, 2014, the total expenses that may be excluded from the provisions of this subparagraph shall not exceed sixty percent (60%) of the total expenses described in said subparagraph for taxable years beginning after December 31, 2014, except in the case of entities subject to the provisions of Act No. 55 of May 12, 1933, known as the 'Banking Law' or entities organized or authorized under the National Bank Act doing business in Puerto Rico, which may exclude up to one hundred percent (100%) of the expenses described in subparagraph (C) of this paragraph as determined by the Secretary.

(17) Fifty-one percent (51%) of the expenses incurred by a taxpayer and paid or to be paid to:

(A) ...

...

(D) The Secretary may evaluate, under the rules and regulations he/she promulgates, at the request of the taxpayer, which shall be submitted within the first taxable year included in the request, the nature of the expenses or costs paid to a related party or home office in order to determine if any of such expenses or costs shall be excluded from the provisions of this paragraph; provided, that such exclusion shall apply only for a maximum of three (3) taxable years; however, the taxpayer shall be entitled to submit a request for subsequent terms after such term has expired, and that, for taxable years beginning after December 31, 2014, the total expenses that may be excluded from the provisions of this subparagraph shall not exceed sixty percent (60%) of the total expenses described in this subparagraph for taxable years beginning after December 31, 2014, except in the case of entities subject to the provisions of Act No. 55 of May

12, 1933, known as the ‘Banking Law’ or entities organized or authorized under the National Bank Act doing business in Puerto Rico, which may exclude up to one hundred percent (100%) of the expenses described in this subparagraph as determined by the Secretary.

(18) ...

(19) Expenses incurred or paid for services rendered by a nonresident individual if the taxpayer has not paid the Sales and Use Tax imposed under Subtitle D of this Code and the Value-Added Tax imposed under Subtitle DD of this Code, as appropriate, on such services. This paragraph (19) shall not apply if the services are subject to an exclusion or exemption from the payment of the Sales and Use Tax or the Value-Added Tax, as applicable.

(20) The cost or depreciation of any taxable good or item, as defined in Subtitle D or DD of this Code, as applicable, even when the same is considered or is part of a regular and necessary expense of the business, if the taxpayer has not paid the Sales and Use Tax or the Value-Added Tax on said item imposed under Subtitles D or DD of this Code, as applicable. This paragraph (20) shall not apply if the taxable good or item, as defined in Subtitles D or DD of this Code, as the case may be, is subject to an exclusion or exemption from the payment of the Sales and Use Tax or the Value-Added Tax, as applicable.”

Section 5.- Paragraph (1) of subsection (c) of Section 1034.01 of Act No. 1-2011, as amended, is hereby amended, to read as follows:

“Section 1034.01.- Capital Gains and Losses.-

(a) ...

(b) ...

(c) Limitation on Capital Losses.—

(1) Corporations. - In the case of a corporation, losses from the sale or exchange of capital assets incurred in a taxable year shall be allowed only up

to the amount of the gains from such sale or exchange generated during said taxable year. Provided, that in the case of losses carried over from previous taxable years, the same shall be allowed up to ninety percent (90%) of the net gain from the sale of capital assets occurred during the taxable year in which the loss is claimed, for taxable years beginning after December 31, 2013 and ending before January 1, 2015; and up to eighty percent (80%) of the net gain generated from the sale of capital assets made during the taxable year in which the loss is claimed, for taxable years beginning after December 31, 2014.

(2) ...
...”

Section 6.- Subsection (d) of Section 1040.06 of Act No. 1-2011, as amended, is hereby amended to read as follows:

“Section 1040.06.- Long-term Contracts.-

(a) ...

(b) ...

(c) ...

(d) Entities engaged in the development of lands or structures shall not be treated as earning income from long-term contracts; such entities may determine their income based on any of the methods described in subsection (b) of this Section, except for paragraph (2) of said subsection, or any other method authorized by the Secretary through regulations, circular letter or administrative determination.

(e) ...”

Section 7.- Subsection (a) of Section 1051.13 of Act No. 1-2011, as amended, is hereby amended to read as follows:

“Section 1051.13.- Rules for the Use of Tax Credits Subject to Moratorium under Sections 1051.11 and 1051.12.-

(a) Any natural or juridical person that has purchased or has been assigned any of the credits subject to moratorium before June 30, 2013, or under subsection (b) of Section 1051.12 of this Subtitle, may claim the same against the taxes imposed under this Subtitle or any special law during the moratorium period only up to the amount set forth in the provisions under which the credit was granted, but shall never reduce the taxes imposed under this Subtitle by more than fifty percent (50%).”

Section 8.- A new Section 1051.14 is hereby added to Act No. 1-2011, as amended, to read as follows:

“Section 1051.14.- Credit for the Purchase or Broadcast of a Television Program Made in Puerto Rico.-

(a) In General.- Any television station that purchases or broadcasts programs made in Puerto Rico by independent producers in which more than ninety percent (90%) of the actors employed are Puerto Rico residents, may claim a credit against the tax imposed under Subtitle A, as provided in this Section. Provided, that such credit may not be claimed in relation to a program that qualifies for the benefits provided under Act No. 27-2011, known as the ‘Puerto Rico Film Industry Economic Incentives Act,’ or any similar provision in a prior or successor law.

(b) Amount of Credit.- The credit provided in this Section shall be fifteen percent (15%) of the expenses paid by the television station during the taxable year in which the credit is claimed for the purchase or broadcast of new programs made in Puerto Rico. Provided, that expenses paid to an entity that is part of a controlled group or to related entities, as defined in Sections 1010.04 and 1010.05 of this Code, shall not qualify for the credit provided in this Section. For purposes of this subsection, related entities shall include partnerships and other excluded members engaged in an income-producing trade or business in Puerto Rico that, should the

rules of group of related entities be applied, for purposes of this subsection, would be considered a component member of such group, by the person that claims the credit.

(c) Requirements.- Any television station that chooses to avail itself of the credit provided under this Section, shall keep a complete and detailed accounting stating the income and expenditures of the regular operations and of the purchase or broadcast of programs made in Puerto Rico, in addition to any other requirements provided in the regulations adopted by the Secretary of the Treasury in conjunction with the Department of Economic Development.

(d) Certificate of Compliance.- The Department of Economic Development shall be responsible for overseeing that every television station claiming a credit under this Section meets all the requirements provided herein and in the pertinent regulations. The Department of Economic Development shall validate this information by issuing a Certificate of Compliance annually, which shall be processed through the Puerto Rico's Economic Development Interagency Incentive Validation Portal, so that the Secretary of the Treasury may have access to the same while processing the tax benefits established in this Act. Said Certificate of Compliance shall also state that the program related to the credit provided in this Section does not qualify for the benefits provided under Act No. 27-2011, known as the 'Puerto Rico Film Industry Economic Incentives Act,' or any similar provision in a prior or successor law. The Certificate of Compliance shall be included in the Income Tax Return of the television station claiming the credit provided under this Section.

(e) Credit Limit.- The credit granted under this Section may be used to reduce the tax imposed under Subtitle A on the eligible television station by up to fifteen percent (15%). Credits not used by the eligible television station shall not be carried over to subsequent taxable years.

(f) Definitions.- For purposes of this Section, the following terms shall have the meaning provided below:

(1) Independent Producer.- shall mean a natural or juridical *bona fide* person that creates or owns the intellectual and creative idea or work that leads to the creation of the television program; is engaged in the development and creation of content and concepts for television stations according to their particular needs; and whose income from such activity does not exceed one million, five hundred thousand dollars (\$1,500,000) annually.

(2) Program made in Puerto Rico.- shall mean feature films, short films, documentaries, series, and miniseries produced in Puerto Rico. This term does not include music videos; advertisements; videogames; contests; live shows; soundtrack, or dubbing; productions containing pornography; productions mainly consisting of religious or political propaganda; radio programs; productions intended for fundraising, marketing, or advertising products, services, persons or businesses; or productions intended for employee training.”

Section 9.- A new subparagraph (R) is hereby added to paragraph (2) of subsection (b) of Section 1061.15 of Act No. 1-2011, as amended, to read as follows:

“Section 1061.15.- Requirement to Submit Financial Statements or other Documents with the Returns.-

(a) ...

(b) Supplemental information, underlying financial statements and other records used to prepare financial statements and submitted to audit procedures applied when a financial statement audit is conducted by a certified public accountant holding a valid license to practice in Puerto Rico for taxable years beginning after December 31, 2012.-

(1) ...

(A) ...

...

(2) ...

(A) ...

...

...

(R) In the case of merchants that are withholding agents and report exempt sales in their Monthly Sales and Use Tax Return or in the return of the tax established in Sections 4210.01 and 4210.02 of this Code due to the exclusions provided in subsections (nn)(3)(P) and (bbb)(13) of Section 4010.01, that such exempt sales have been duly claimed in accordance with Subtitle B of this Code.

(S) In the case of merchants that engage in self-consumption of inventory and report such fact in their Monthly Sales and Use Tax Return, that such self-consumption has been reported and paid in accordance with Subtitle D of this Code.

(c) ...

...”

Section 10.- Subsections (a), (b), and (d) of Section 1101.01 of Act No. 1-2011, as amended, are hereby amended to read as follows:

“Section 1101.01.- Tax Exemption to Corporations and Nonprofit Organizations.-

(a) Except as provided in Subchapter B of Chapter 10 of this Subtitle, the following organizations shall be exempt from taxation under this Subtitle:

(1) ...

...

(9) Organizations exempted under Act No. 120 of October 31, 1994:

(A) ...

(B) Nonprofit organizations or entities devoted exclusively to promoting and developing sports for recreational purposes that have duly requested a tax exemption prior to January 1, 2011 (be it understood that if a franchise that was declared tax exempt before the date set forth herein changes its owner or manager under another juridical entity, but the franchise survives without altering its purpose and mission, the tax exemption awarded to said franchise prior to January 1, 2011, shall be valid for the new owner or acquiring manager) and were declared tax exempt by the Secretary, provided that they do not do business with the general public in a manner similar to that of for-profit organizations, and meet the following conditions:

(i) ...

...

(b) An organization operated for the primary purpose of carrying on a trade or business for profit shall not be exempt under any subsection of this Section based on the fact that all of its profits are payable to one or more organizations exempt from taxation under this Section. For purposes of this subsection, the term 'trade or business' shall not include the rental by an organization of its real property (including personal property leased with the real property). Moreover, an organization shall not be exempt from taxation under this Subtitle unless such organization shows, to the satisfaction of the Secretary, that it serves the public interest. For purposes of this subsection, it shall be presumed that an organization serves a private interest and such organization shall show, to the satisfaction of the Secretary, that it is not organized nor operated for the benefit of the private interest

of the creator of the entity, his/her family, stockholders of the corporation or persons controlled, directly or indirectly by the same.

(c) ...

(d) In the case of organizations declared as tax exempt under paragraphs (2), (3), (4)(A), (4)(B), (4)(C), (5), (6), (8)(A), (8)(B), and (9) of subsection (a):

(1) ...

(2) ...

(3) The Secretary may revoke any tax exemption determination previously granted when he/she determines that the organization:

(A) ...

(B) Has failed to meet any of the requirements established in this Section for said exemption, including those established in paragraph (2),

(C) Has violated any of the provisions of this Code, or applicable law, except when it is shown, to the satisfaction of the Secretary, that such violation is due to reasonable cause and not to willful disregard or gross negligence, or

(D) Incurs expenses that are extravagant; expenses that are not clearly related to the exempt purposes of the organization; expenses that are intended to make profit by directors, officers, officials, or employees; or expenses incurred for personal, living, and family expenses of directors, officers, officials, or employees.

(4) ...

(5) The Secretary shall prescribe through regulations, administrative determination, or circular letter the information that such organizations shall submit in order to determine compliance with the provisions of subparagraphs (A) and (B) of paragraph (3) of this subsection (d). In all cases, the

organization shall be required to present, to the satisfaction of the Secretary, proof that it renders services to Puerto Rico residents.

(e) ...

(f) ...”

Section 11.- A new subparagraph (F) is hereby added to paragraph (2) of subsection (c) of Section 1102.06 of Act No. 1-2011, as amended, to read as follows:

“Section 1102.06.- Exemption Requirements.-

(a) ...

(b) ...

(c) Prohibited Transactions.- For purposes of this Section, the term ‘prohibited transaction’ means any transaction in which-

(1) ...

(2) Any organization that is not described in paragraph (1) that is subject to the provisions of this Section-

(A) ...

....

(F) Incurs expenses that are extravagant; expenses that are not clearly related to the exempt purposes of the organization; expenses that are intended to make profit by directors, officers, officials, or employees; or expenses incurred for personal, living, and family expenses of directors, officers, officials, or employees.

...

(d) ...

...”

Section 12.- Subsection (g) of Section 1115.02 of Act No. 1-2011, as amended, is hereby amended to read as follows:

“Section 1115.02.- Election; Revocation Termination.-

(a) ...

...

(g) Election After Termination.- If a corporation of individuals has made an election under subsection (a) and if such election has been terminated under subsection (d), such corporation (and any successor corporation) shall not be eligible to make an election under subsection (a) for any taxable year before its fifth (5th) taxable year which begins after the first (1st) taxable year for which such termination is effective, unless the Secretary consents to such election. Provided, that this subsection shall not apply to those corporations of individuals that have voluntarily revoked their election for taxable years beginning after December 31, 2010 and chose to avail themselves of the provisions of Section 1023.25(b) of this Code.”

Section 13.- Subparagraph (D) of paragraph (1) of subsection (h) of Section 3020.07 of Act No. 1-2011, as amended, is hereby amended to read as follows:

“Section 3020.07.- Crude Oil, Partially Finished, Finished Oil By-products, or any Other Hydrocarbon Blends.-

(a) ...

...

(h) Exemptions.- The tax imposed by this Section shall not apply to:

(1) ...

(A) ...

(B) ...

(C) ...

(D) business holding a decree issued under Act No. 73-2008 with respect to the provisions of subsections (6) and (8) of Section 9 of said Act, or equivalent sections under prior or successor industrial incentives laws.

(2) ...

(i) ...”

Section 14.- Subparagraph (D) of paragraph (1) of subsection (h) of Section 3020.07A of Act No. 1-2011, as amended, is hereby amended to read as follows:

“Section 3020.07A.- Excise Tax on Crude Oil, Partially Finished, Finished Oil By-products, or any other Hydrocarbon Blend Devoted to the Infrastructure Financing Authority.-

(a) ...

...

(h) Exemptions.- The tax imposed by this Section shall not apply to:

(1) ...

(A) ...

(B) ...

(C) ...

(D) business holding a decree issued under Act No. 73-2008 with respect to the provisions of subsections (6) and (8) of Section 9 of said Act or equivalent sections under prior or successor industrial incentives laws.

(2) ...

(i) ...”

Section 15.- Paragraph (1) of subsection (a) of Section 3030.15 of Act No. 1-2011, as amended, is hereby amended to read as follows:

“Section 3030.15.- Nonprofit Charitable Institutions.-

(a) ...

(1) The first five thousand dollars (\$5,000) of the excise tax on any automobile that is not a luxury car; provided, that this exemption shall apply to two (2) automobiles per calendar year, except in the case of vehicles known as ‘vans’ or ‘mini vans,’ which shall not be subject to this limitation.

(2) ...

(3) ...

(b) ...

...”

Section 16.- Paragraph (5) of subsection (a) of Section 3060.11 of Act No. 1-2011, as amended, is hereby amended to read as follows:

“Section 3060.11.- Disposition of Funds.-

(a) The proceeds of the taxes and license fees collected by virtue of this Subtitle shall be deposited in the General Fund of the Treasury of Puerto Rico except as provided below and in Section 3060.11A:

(1) ...

...

(5) Beginning on Fiscal Year 2015-2016, the revenues collected from the tax on cigarettes established in Section 3020.05 of this Subtitle up to thirty six million dollars (\$36,000,000) per Fiscal Year shall be covered into a special deposit in favor of the Puerto Rico Integrated Transportation Authority for its corporate powers and purposes. The thirty six million dollars (\$36,000,000) per Fiscal Year to be covered into the special deposit in favor of the Puerto Rico Integrated Transportation Authority shall be the third priority and contingent on the deposit of twenty million dollars (\$20,000,000) from the revenues collected from the tax on cigarettes established in Section 3020.05 of this Subtitle to be covered into the special deposit in favor of the Highway and Transportation Authority as provided in paragraph (3) of this subsection, and on the deposit of the ten million dollars (\$10,000,000) of the revenues collected from the tax on cigarettes imposed under Section 3020.05 of this Subtitle covered into the special deposit in favor of the Metropolitan Bus Authority, as provided in paragraph (4) of this subsection.

(A) ...

...

The Secretary shall transfer from time to time as agreed with the Authority, the amounts covered into the special deposit, deducting from these the amounts reimbursable according to the provisions of Sections 3030.19 and 3030.20 of this Subtitle.”

Section 17.- Subsections (s), (cc), (ee), (ll), (nn), and (bbb) of Section 4010.01 of Act No. 1-2011, as amended, are hereby amended to read as follows:

“Section 4010.01.- General Definitions.-

For purposes of this Subtitle, the following terms, words, and phrases shall have the general meaning expressed below, except when the context clearly indicates otherwise:

(a) ...

...

(s) Machinery and Equipment Used in Manufacture.- Machinery and equipment used exclusively in the manufacturing process or in the construction or repair of vessels inside or outside the premises of a manufacturing plant, including all machinery, equipment, and accessories used to carry out the manufacturing process or that the manufacturing plant is required to acquire by federal or Commonwealth laws or regulations to operate a manufacturing plant. In addition, for purposes of this Subtitle, machinery and equipment as well as parts, tools, and components used in the repair, maintenance, and conditioning of aircraft by holders of a tax exemption under Act No. 73-2008, as amended, or any similar provision in a prior or successor law, shall be treated as machinery and equipment used in manufacture.

...

(cc) Manufacturing Plant.- Includes any plant engaged in assembling or integrating ‘tangible personal property,’ or devoted to transforming ‘raw material’ into finished products that are different from their original state. Any factory or

business engaged in the repair, maintenance, and conditioning of aircraft as well as the parts and components thereof, that avails itself of any tax and industrial incentive laws existing in Puerto Rico, or any substitute thereof, shall likewise be treated as a manufacturing plant for purposes of the exemption established in Section 4030.06.

(dd) ...

(ee) Sales Price. -

(1) ...

...

(3) In the case of services rendered to other business by virtue of a commercial, industrial, or residential construction project that is directly related to said project, the sales price of such services shall be determined by multiplying the total cost of the invoice issued to the merchant by thirty-five percent (35%). Provided, that this paragraph shall not apply in the case of taxable services rendered to persons other than merchants.

...

(ll) Designated Professional Services.- Means legal services and the following professional services, as regulated by their respective Boards of Examiners attached to the Department of State of Puerto Rico, if applicable:

(1) ...

...

(8) Engineers and Land Surveyors.

(9) Beginning on October 1, 2015, services rendered by a 'tax return, statement or refund claim specialist' as defined in Subtitle F of this Code in relation to the preparation or revision of tax returns, statements, or refund claims in connection with the taxes imposed under this Code or the United States Internal Revenue Code; and

(10) Designated professional services, as defined in this paragraph, if the same are rendered by a nonresident person to a person located in Puerto Rico, regardless of the place where the service was provided, insofar as such service is directly or indirectly related to operations or activities carried out in Puerto Rico by such person.

(11) Notwithstanding the provisions of this subsection, designated professional services shall not be subject to the tax rate provided in Sections 4210.01(c) and 4210.02(c) of this Code when:

(A) Designated professional services rendered by persons whose annual volume of business does not exceed fifty thousand dollars (\$50,000). If a person belongs to a controlled group, as defined in Section 1010.04, the volume of business of said person shall be determined taking into account the volume of business of all the members of the controlled group. For purposes of this subsection, a partnership, special partnership, and corporation of individuals shall be treated as a corporation under Section 1010.04 to determine if it is a member of a controlled group. In the case of a person who is an individual, the volume of business shall be determined taking into account all of his/her trade or business activities or income-producing activities;

(B) legal services rendered by the members of the legal profession authorized by the Supreme Court of Puerto Rico to practice Law in Puerto Rico, or by an appropriate entity in a foreign jurisdiction, only with respect to the fees for services related to legal representation in the General Court of Justice, the US District Court for the District of Puerto Rico, the US Court of Appeals for the First Circuit, and the Supreme Court of the United States of America, or administrative agencies of the Government of Puerto Rico, legal advice and notary services, provided, that the services rendered by the members of the legal profession authorized by the Supreme Court of Puerto Rico to practice

Law in Puerto Rico and those that may be rendered by other professionals including, but not limited to: financial consulting services, lobbying, and processing services shall not be considered legal services;

(C) Designated professional services described in paragraphs (1) through (9) of this subsection, if such services are rendered by a person engaged in trade or business or income-producing activity in Puerto Rico to a person engaged in trade or business or income-producing activities in Puerto Rico that is part of a controlled group of corporations or a controlled group of related entities, as such term is defined in Sections 1010.04 and 1010.05, except that, for these purposes, the provisions of paragraph (2)(D) of subsection (b) of Section 1010.04 shall not be taken into account, or is a partnership or excluded member engaged in trade or business or income-producing activities in Puerto Rico, should the rules of group of related entities be applied, for purposes of this subsection, would be considered a component member of such group, by another person that is part of one of said groups;

(D) Designated professional services described in paragraphs (1) through (9) of this subsection, if such services are rendered by a person engaged in trade or business or income-producing activities outside of Puerto Rico to an entity operating under the provisions of Act No. 73-2008, known as the ‘Economic Incentives Act for the Development of Puerto Rico,’ or similar provision in a prior or successor law, Act No. 83-2010, known as the ‘Puerto Rico Green Energy Incentives Act,’ or similar provision in a prior or successor law; or Act No. 20-2012, known as the ‘Act to Promote the Export of Services’ or similar provision in a prior or successor law, entities subject to the provisions of Act No. 55 of May 12, 1933, known as the ‘Banking Law’ or entities organized or authorized under the National Bank Act both of which belong to the same controlled group of corporations, or a controlled group of related entities, as such

term is defined in Sections 1010.04 and 1010.05, or being one of them a partnership or excluded member, should the rules of group of related entities be applied, for purposes of this subsection, would be considered a component member of the same group;

(E) Designated professional services rendered to condominium residents' association or councils of co-owners or homeowners' association, as such term is defined in subparagraph (A) of paragraph (5) of subsection (a) of Section 1101.01 of the Code, for mutual benefit of its residents, as well as services provided to housing cooperatives organized under Act No. 239-2004, as amended, known as the 'General Cooperative Associations Act of 2004,' and as defined in subparagraph (A) of paragraph (7) of subsection (a) of Section 1101.01 of this Code, provided, that eighty-five percent (85%) of the units of the association, council, or cooperative are used for residential purposes;

(F) Designated professional services rendered to affordable housing projects that receive federal or state rental assistance; provided, that the residents thereof directly pay a maintenance fee and have obtained a certificate of exemption subject to the requirements established by the Secretary through administrative determination, circular letter, information bulletin or other general document;

(G) Designated professional services rendered to an entity engaged in the repair, maintenance and conditioning of aircraft (and parts and components thereof), provided that such business holds an exemption decree issued under Act No. 73 of May 28, 2008, known as the 'Economic Incentives Act for the Development of Puerto Rico,' or similar provision in a prior or successor law;

(H) Designated professional services rendered to a person engaged exclusively in storing (including leasing of tank containers) or processing

fuel, jet fuel, aviation fuel, gas oil, diesel oil, crude oil, partially finished, finished oil by-products, or any other hydrocarbon blend mentioned in Subtitle C of this Code, insofar as the fuel storage or management is carried out in a foreign trade zone or subzone, as such term is defined in Section 3010.01(a) (16) of this Code. Provided, that this subsection shall not apply to a person engaged in the distribution and hauling of said products;

(I) Designated professional services rendered to *bona fide* farmers, duly certified by the Department of Agriculture;

(J) Designated professional services described in paragraphs (1) through (9) of this subsection, if such services are rendered to labor unions organized under the Puerto Rico Work Relations Act, Act No. 130-1945, as amended, and the Puerto Rico Public Service Labor Relations Act, Act No. 45-1998, as amended, insofar as such labor unions comply with subparagraphs (A), (B), or (C) of paragraph (4) of subsection (a) of Section 1101.01 of this Code; and

(K) Designated professional services described in paragraphs (1) through (9) of this subsection, if such services are rendered to any public or private entity whose Organic Act provides that it shall be exempt from all kinds of taxes and levies.

(mm) ...

(nn) Taxable Services.-

(1) Means any service rendered to any person, including:

(A) ...

...

(D) Installation of tangible personal property by the seller or a third party;

(E) Repair of tangible personal property; and

(F) Taxable services, as defined in this subsection, if such services are rendered by a nonresident person to a person located in Puerto Rico, regardless of the place where the service was rendered, insofar as such service is directly or indirectly related to operations or activities carried out in Puerto Rico by such person.

(2) For events occurring before October 1, 2015, taxable services shall exclude the following:

(A) ...

...

(3) For events occurring after September 30, 2015, taxable services shall exclude the following:

(A) ...

...

(E) Interest and other charges for the use of money and other fees for services rendered by financial institutions as defined in Section 1033.17(f)(4), excluding bank fees subject to the provisions of clause (i) of subparagraph (A) of paragraph (2) of this subsection;

...

(H) Services rendered by persons whose volume of business does not exceed fifty thousand dollars (\$50,000). If a person belongs to a controlled group, as such term is defined in Section 1010.04, the volume of business of said person shall be determined taking into account the volume of business of all members of the controlled group. For purposes of this subsection a partnership, special partnership, and corporation of individuals shall be treated as a corporation under Section 1010.04 to determine if it is a member of a controlled group. In the case of a person who is an individual, the volume of business shall be

determined taking into account the volume of business of all his/her trade or business or income-producing activities;

(I) Services rendered by a person engaged in trade or business or income-producing activities in Puerto Rico to another person engaged in trade or business or income-producing activities in Puerto Rico that is part of a controlled group of corporations or a controlled group of related entities, as such term is defined in Sections 1010.04 and 1010.05 of this Code, except that, for these purposes the provisions of paragraph (2)(D) of subsection (b) of Section 1010.04 shall not be taken into account, or is a partnership or excluded member engaged in trade or business or income-producing activities in Puerto Rico, should the rules of group of related entities be applied, for purposes of this Act, would be considered a component member of such group, by another person that is part of one of said groups;

(J) Services rendered to condominium residents' association or councils of co-owners or homeowners' association, as such term is defined in subparagraph (A) of paragraph (5) of subsection (a) of Section 1101.01 of the Code, for mutual benefit of its residents, as well as services rendered to housing cooperatives organized under Act No. 239-2004, as amended, known as the 'General Cooperative Associations Act of 2004,' and as defined in subparagraph (A) of paragraph (7) of subsection (a) of Section 1101.01 of this Code, provided, that eighty-five percent (85%) of the units of the association, council or cooperative are used for residential purposes;

(K) Services rendered to affordable housing projects that receive federal or state rental assistance; provided, that the residents thereof directly pay a maintenance fee and have obtained a certificate of exemption subject

to the requirements established by the Secretary through administrative determination, circular letter, information bulletin or other general document;

(L) Services rendered by a person engaged in trade or business or income-producing activity outside of Puerto Rico to an entity operating under the provisions of Act No. 73-2008, known as the ‘Economic Incentives Act for the Development of Puerto Rico,’ or similar provision in a prior or successor law; Act No. 83-2010, known as the ‘Puerto Rico Green Energy Incentives Act,’ or similar provision in a prior or successor law; or Act No. 20-2012, known as the ‘Act to Promote the Export of Services,’ or similar provision in a prior or successor law, or entities subject to the provisions of Act No. 55 of May 12, 1933, known as the ‘Banking Law’ or entities organized or authorized under the National Bank Act both of which belong to the same controlled group of corporations or controlled group of related entities, as such term is defined in Sections 1010.04 and 1010.05, or being one of them a partnership or excluded member, should the rules of group of related entities be applied, for purposes of this subsection, would be considered a component member of the same group;

(M) Right of use of intangible assets;

(N) Production services rendered by a producer of radio and television programs or advertisements; provided, that for purposes of this subsection, the term ‘radio and television programs or advertisements’ shall mean any radio and television program or advertisement produced in Puerto Rico;

(O) Advertising and promotion services and advertising spots in any medium including, but not limited to electronic, printed, digital, interior or exterior, including advertising agency commission and placement fees; as well as payment for electronic and digital media content production in Puerto Rico.

(P) Subcontracted services which refer to services rendered, including taxable services described in paragraph (1) of this subsection, by a business—the subcontractor—to another business—the contractor—which are, in turn, contracted by a third party, and said contractor provides services to the third party through the subcontractor. Provided, that this exemption shall apply solely to services subcontracted by virtue of a commercial, industrial, or residential construction project and to telecommunications services subcontracted by a business engaged in the rendering of telecommunications services;

(Q) Services rendered directly to a business by the employees of an employment agency, as defined in Act No. 417 of May 14, 1947, as amended, corresponding to the gross income of said employee and that are duly identified in the invoice issued to the business that receives the service;

(R) Services rendered for the repair, maintenance, and conditioning of aircraft by holders of a tax exemption under Act No. 73-2008, as amended, or any similar provision in a prior or successor law; provided, that such services are included in the tax exemption decree of the holder;

(S) Toll manufacturing or contract manufacturing services; provided that the service provider holds a Tax Collection Exemption Certificate issued by the Secretary;

(T) Services rendered to an entity engaged in the business of repairing, providing maintenance, and conditioning aircraft (and parts and components thereof); provided, that such business holds an exemption decree issued under Act No. 73 of May 28, 2008, known as the ‘Economic Incentives Act for the Development of Puerto Rico,’ or any similar provision in a prior or successor law;

(U) Services rendered to a person engaged exclusively in storing (including leasing of tank containers) or processing fuel, jet fuel, aviation

fuel, gas oil, diesel oil, crude oil, partially finished, finished oil by-products, or any other hydrocarbon blend mentioned in Subtitle C of this Code, insofar as the fuel storage or management is carried out in a foreign trade zone or subzone, as such term is defined in Section 3010.01(a)(16) of this Code. Provided, that this subsection shall not apply to a person engaged in the distribution and hauling of said products;

(V) Sea, air, and ground transportation of goods, including charges directly related to sea, air, or ground delivery;

(W) Services rendered to *bona fide* farmers duly certified by the Department of Agriculture; and

(X) Services rendered to any public or private entity whose Organic Act provides that it shall be exempt from all kinds of taxes and levies.

(oo) ...

...

(bbb) Business to Business Services.- As of October 1, 2015, services rendered to a person engaged in trade or business or income-producing activities, including services rendered by a nonresident person to a person located in Puerto Rico, regardless of the place where the service was rendered, insofar as such service is directly or indirectly related to operations or activities carried out in Puerto Rico by such person; except for the following:

(1) Taxable services:

(A) ...

...

(F) Repair and maintenance services (non-capitalizable) of tangible personal property;

(G) ...

...

- (2) Designated Professional Services.
- (3) ...
- (4) ...

(5) Interest and other charges for the use of money and other fees for services rendered by financial institutions as defined in Section 1033.17(f)(4), excluding bank fees subject to the provisions of clause (i) of subparagraph (A) of paragraph (1) of this subsection;

(6) ...

(7) Services rendered by persons whose volume of business does not exceed fifty thousand dollars (\$50,000). If a person belongs to a controlled group, as such term is defined in Section 1010.04, the volume of business of said person shall be determined taking into account the volume of business of all members of the controlled group. For purposes of this subsection, a partnership, special partnership, and corporation of individuals shall be treated as a corporation under Section 1010.04 to determine if it is a member of a controlled group. In the case of a person who is an individual, the volume of business shall be determined taking into account the volume of business of all his/her trade or business or income-producing activities;

(8) Services rendered to condominium residents' associations or councils of co-owners or homeowners' associations, as such term is defined in subparagraph (A) of paragraph (5) of subsection (a) of Section 1101.01 of this Code, for mutual benefit of its residents, as well as services rendered to housing cooperatives organized under Act No. 239-2004, as amended, known as the 'General Cooperative Associations Act of 2004,' and as defined in subparagraph (A) of paragraph (7) of subsection (a) of Section 1101.01 of this Code, provided, that eighty-five percent (85%) of the units of the association, council or cooperative are used for residential purposes;

(9) Services rendered to affordable housing projects that receive federal or state rental assistance; provided, that the residents thereof directly pay a maintenance fee and have obtained a certificate of exemption subject to the

requirements established by the Secretary through administrative determination, circular letter, information bulletin or other general document;

(10) Production services rendered by a producer of radio and television programs or advertisements; provided, that for purposes of this subsection, the term ‘radio and television programs or advertisements’ shall mean any radio and television program or advertisement produced in Puerto Rico;

(11) Right of use of intangible assets;

(12) Advertising and promotion services and advertising spots placed in any medium including, but not limited to electronic, printed, digital, interior or exterior, including advertising agency commission and placement fees; as well as payment for electronic and digital media content production in Puerto Rico;

(13) Subcontracted services which refer to services rendered, including taxable services described in paragraph (1) of this subsection, by a business—the subcontractor—to another business—the contractor—which are, in turn, contracted by a third party, and said contractor provides services to the third party through the subcontractor. Provided, that this exemption shall apply solely to services subcontracted by virtue of a commercial, industrial, or residential construction project and to telecommunications services subcontracted by a business engaged in the rendering of telecommunications services;

(14) Services rendered directly to a business by the employees of an employment agency, as defined in Act No. 417 of May 14, 1947, as amended, corresponding to the gross income of said employee and that are duly identified in the invoice issued to the business that receives the service;

(15) Services rendered, including taxable services provided in paragraph (1) of this subsection, by a person engaged in trade or business or income-producing activities in Puerto Rico to another person engaged in trade or

business or income-producing activities in Puerto Rico that is part of a controlled group of corporations or a controlled group of related entities, as such term is defined in Sections 1010.04 and 1010.05 of this Code, except that, for these purposes the provisions of paragraph (2)(D) of subsection (b) of Section 1010.04 shall not be taken into account, or is a partnership or excluded member engaged in trade or business or income-producing activities in Puerto Rico, should the rules of group of related entities be applied, for purposes of this Act, would be considered a component member of such group, by another person that is part of one of said groups;

(16) Services rendered by a person engaged in trade or business or income-producing activity outside of Puerto Rico to an entity operating under the provisions of Act No. 73-2008, known as the ‘Economic Incentives Act for the Development of Puerto Rico,’ or similar provision in a prior or successor law; Act No. 83-2010, known as the ‘Puerto Rico Green Energy Incentives Act,’ or similar provision in a prior or successor law; or Act No. 20-2012, known as the ‘Act to Promote the Export of Services,’ or similar provision in a prior or successor law; or entities subject to the provisions of Act No. 55 of May 12, 1933, known as the ‘Banking Law’ or entities organized or authorized under the National Bank Act both of which belong to the same controlled group of corporations, or a controlled group of related entities, as such term is defined in Sections 1010.04 and 1010.05, or being one of them a partnership or excluded member, should the rules of group of related entities be applied, for purposes of this subsection, would be considered a component member of the same group;

(17) Services rendered for the repair, maintenance, and conditioning of aircraft by holders of a tax exemption under Act No. 73-2008, as amended, or any similar provision in a prior or successor law; provided, that such services are included in the tax exemption decree of the holder;

(18) Toll manufacturing or contract manufacturing services; provided that the service provider holds a Tax Collection Exemption Certificate issued by the Secretary;

(19) Services rendered to an entity engaged in the business of repairing, providing maintenance, and conditioning aircraft (and parts and components thereof); provided, that such business holds an exemption decree issued under Act No. 73 of May 28, 2008, known as the ‘Economic Incentives Act for the Development of Puerto Rico,’ or any similar provision in a prior or successor law;

(20) Sea, air, and ground transportation of goods, including charges directly related to sea, air, or ground delivery;

(21) Professional services rendered to a person engaged exclusively in storing (including leasing of tank containers) or processing fuel, jet fuel, aviation fuel, gas oil, diesel oil, crude oil, partially finished, finished oil by-products, or any other hydrocarbon blend mentioned in Subtitle C of this Code, insofar as the fuel storage or management is carried out in a foreign trade zone or subzone, as such term is defined in Section 3010.01(a)(16) of this Code. Provided, that this subsection shall not apply to a person engaged in the distribution and hauling of said products;

(22) Services rendered to *bona fide* farmers duly certified by the Department of Agriculture;

(23) Services rendered to any public or private entity whose Organic Act provides that it shall be exempt from all kinds of taxes and levies;

(ccc) ...”

Section 18.- Subsections (a) and (b) of Section 4020.01 of Act No. 1-2011, as amended, are hereby amended to read as follows:

“Section 4020.01.- Sales Tax.-

(a) There shall be levied, collected, and paid on every sales transaction of a taxable item in Puerto Rico made before the effective date of Subtitle DD of this Code, a tax at the rates established in this Section. The application of the tax shall be subject to the exemptions granted in Chapter 3 of this Subtitle.

(b) The tax rate shall be five point five percent (5.5%) of the sales price of the taxable item and bundled transactions; provided, that effective on February 1, 2014 and through the effective date of Subtitle DD of this Code, the tax rate shall be six percent (6%).”

Section 19.- Subsections (a) and (d) of Section 4020.02 of Act No. 1-2011, as amended, are hereby amended to read as follows:

“Section 4020.02.- Use Tax.-

(a) There shall be levied, collected, and paid on the use, storage, or consumption of a taxable item in Puerto Rico carried out in Puerto Rico before effective date of Subtitle DD of this Code, unless the taxable item has been subject to the sales tax under Section 4020.01 of the Code, a tax at the rates established in this Section.

(b) ...

(c) ...

(d) The tax rate applicable to the sales price of the taxable item and bundled transactions; shall be:

(1) ...

(2) six percent (6%) through the effective date of Subtitle DD of this Code.”

Section 20.- Subsection (c) of Section 4020.04 of Act No. 1-2011, as amended, is hereby amended to read as follows:

“Section 4020.04.- Persons Liable for the Payment of the Tax.-

(a) ...

(b) ...

(c) Notwithstanding the provisions of this Section, for taxable events occurred as of October 1, 2015, in the case of the rendering of the following services: (i) taxable services, (ii) services rendered to other business, and (iii) designated professional services rendered by a nonresident individual to a person located in Puerto Rico, regardless of the place where the service was rendered, the person liable for the payment shall be the recipient of the service in Puerto Rico; provided, that such service is directly or indirectly related to operations or activities carried out in Puerto Rico by such person. This subsection shall not apply for purposes of the municipal sales and use tax established in Section 6080.14.”

Section 21.- A new subsection (a) is hereby added, current subsection (a) is hereby renumbered as subsection (b), and current subsection (b) of Section 4030.20 of Act No. 1-2011, as amended, is hereby eliminated to read as follows:

“Section 4030.20.- Uniforms, Supplies, and Print Books Exemption.-

(a) Print Books Exemption.- All printed books are hereby exempt from the sales and use tax. The term ‘print books’ shall mean every printed, non-periodical, single publication, which is edited at once or at intervals, in one or various scientific, cultural, or artistic installments or fascicles, excluding electronic publications, magazines and newspapers.

(b) ...

...”

Section 22.- Subsection (a) of Section 4050.09 of Act No. 1-2011, as amended, is hereby amended and a new paragraph (8) is hereby added, to read as follows:

“Section 4050.09.- Municipal Improvement Fund - Creation.-

(a) Creation of the Fund.- A ‘Municipal Improvement Fund’ is hereby created:

(1) ...

(2) ...

The moneys available in the ‘Municipal Improvement Fund’ shall be allocated distributed to the municipalities through legislation by the Legislative Assembly of Puerto Rico to be appropriated for capital works and improvement projects in the municipalities, such as:

(1) ...

(2) ...

...

(7) ...

(8) Up to fifteen percent (15%) of the resources of the Municipal Improvement Fund may be allocated to address situations in connection with direct and essential services provided to the people such as: services aimed at servicing the children, youth, and elderly populations, as well as direct services aimed at improving the quality of life of the residents of disadvantaged communities.

These Funds shall be allocated to municipalities through legislation by the Legislative Assembly in accordance with the following parameters:

(a) To be used by programs duly adopted and established whose requirements and controls are established by regulations.

(b) No funds shall be used to defray operating expenses or to replace funds previously appropriated for payroll or contracts under the item of the services described herein.

(c) Allocated funds shall be used within one (1) year after the receipt thereof. Once such term elapses, any balance shall be reallocated by the Legislative Assembly.

(d) The entity receiving the funds shall, in turn, submit a report to the contracting municipality and to the Office of the Secretary of the Senate and of the Clerk of the House of Representatives at the end of the one-year term provided in paragraph (c). Said report shall include, but not be limited to, the number of jobs generated and the population served with the allocated funds. Reports shall include, but not be limited to, an itemization of the services rendered, the population served, the amount of funds used and an evaluation or metrics of the effectiveness of the service rendered in improving the quality of life of the people served. These conditions must be included in the service agreement between the municipality or government entity and the contracting entity.”

Section 23.- Subsections (c) and (d) of Section 4070.01 of Act No. 1-2011, as amended, are hereby amended to read as follows:

“Section 4070.01.- Exclusion of Preexisting Contracts and Bids.-

(a) ...

(b) ...

(c) Sale and Use of Taxable Items after July 1, 2015. The following provisions shall apply to contracts and government bids existing as of July 1, 2015.

(1) Sales covered under contracts and government bids related to taxable items that were entered into or awarded before July 1, 2015 shall be subject to the Sales and Use Tax applicable to said taxable item as of June 30, 2015. Provided, that any person that is a party to a contract or bid covered under this

Section may acquire the taxable items object of such contracts at the rate provided in this paragraph for a twelve(12)-month period or the term of the contract, whichever is less. The foregoing shall apply to contracts relating to the rendering of taxable services, including business to business services and designated professional services if the same were paid before July 1, 2015.

(2) The Secretary shall prescribe by means of an official document the manner in which this Section shall be administered; provided, that merchants whose agreements are covered under this Section shall obtain a written authorization of the Secretary to sell goods or render services at the rate of the Sales and Use Tax in effect as of June 30, 2015.

(3) For purposes of this subsection, a preexisting contract or bid shall be that drafted and executed in the regular course of business of a merchant, by and between such merchant and one or more parties, which may or may not be merchants, whereby the merchant is required to sell a specific amount of taxable items at a fixed price. Said term also includes contracts executed after the effective date of this Subtitle, but only by virtue of a bid awarded prior to July 1, 2015.

Preexisting contracts, as of July 1, 2015, relating to trade shows and conventions to be held after the effective date of this paragraph shall be subject to the Sales and Use Tax rate applicable to said taxable item as of June 30, 2015. Provided, that this paragraph shall apply to trade shows and conventions that have obtained, within thirty (30) days after the effective date of this paragraph, a sworn certification issued by the Tourism Company stating that it complies with the provisions of this paragraph and file a request to such effect with the Secretary.

(d) Commercial, industrial or residential construction projects started as of May 31, 2015.

(1) Registration.- Commercial, industrial or residential construction projects that have started any phase thereof upon the filing or approval of a site consultation, construction consultation, project draft or preliminary development with the Permit Management Office, an autonomous municipality or the Planning Board, as of May 31, 2015, may register in a Works and Structures Registry in the Department of the Treasury, in accordance with the parameters to be established by the Secretary through official document, in order to avail themselves of the provisions of this subsection. Contracts entered into by virtue of a commercial, industrial or residential construction project registered in the Works and Structures Registry may also be registered in such registry.

(2) Applicable Rate.- The owners of commercial, industrial or residential construction projects and business that are parties to contracts registered under paragraph (1) of this subsection may acquire taxable items, contract with and receive services from other business and designated professional services that are directly related to said projects subject to the Sales and Use Tax rates and exemptions applicable to said taxable items and services as of May 31, 2015, even if the same are acquired or received after said date, subject to the provisions of paragraph (3) of this subsection.

(3) Period of the Applicable Rate.- The rate provided in paragraph (2) of this subsection shall apply to taxable items and services that are directly related to the commercial, industrial or residential construction projects registered under paragraph (1) of this subsection until June 30, 2016. Provided, that said date may be extended, at the request of the business, up to twelve (12) additional months or, in the case of the construction of tourist projects and hospital units, for the term of the construction works, at the discretion of the Secretary.

(4) Certificates

(A) Works and Structures Registration Certificate.- The Secretary shall issue a Works and Structures Registration Certificate to commercial, industrial or residential construction projects that have been registered in the Works and Structures Registry provided in paragraph (1) of this subsection. The certificate provided in this subparagraph shall be used by the merchant who owns the construction work to claim the rate provided in paragraph (2) of this subsection, at the time, and in the form and manner prescribed by the Secretary through official document.

(B) Sales and Use Tax Exemption.- The Secretary shall issue a Sales and Use Tax exemption to the acquiring merchant who is a party to a contract entered into by virtue of the commercial, industrial or residential construction project registered in the Works and Structures Registry that is, in turn, registered in said Registry. The certificate provided in this subsection shall be used by the merchant to claim the rate provided in paragraph (2) of this subsection, at the time, and in the form and manner prescribed by the Secretary through official document.

(C) Tax Collection Exemption.- The merchant-seller shall be exempt from collecting the Sales and Use Tax from merchants who hold a Works and Structures Registration Certificate or a Sales and Use Tax Exemption, except as provided in paragraph (2) of this subsection. The merchant-seller shall keep in his/her records a copy of said documents as proof of the applicability of the provisions of this subsection to the sale to the merchant-buyer and shall exercise the appropriate degree of care to prevent the purchaser from acquiring taxable items or services using the Works and Structures Registration Certificate or the Sales and Use Tax Exemption that, given the business of the purchaser to whom

the certificate was issued, would be unreasonable to believe that it could benefit from the provisions of this subsection.”

Section 24.- Paragraphs (7), (10), (12), (58), (64), (66), and (79) are hereby amended and a new paragraph (80) is hereby added to subsection (a) of Section 4110.01 of Act No. 1-2011, as amended, to read as follows:

“Section 4110.01.- General Definitions.-

(a) For purposes of this Subtitle, the following terms, words, and phrases shall have the general meaning stated below, except where the context clearly indicates otherwise.

(1) ...

...

(7) Exempt Items.- Means any item introduced in Puerto Rico consisting of:

(A) ...

(B) ...

(C) Items for treating health conditions

(D) ...

...

(8) ...

(9) ...

(10) Items for Manufacture.- Consist of:

(A) ...

(B) Machinery and equipment used in manufacture for the production of finished products or used in the manufacturing process of said products, including, but not limited to the electric power generation process;

(C) Items exempt from excise taxes under Section 9(a) of Act No. 73 of May 28, 2008, known as the ‘Economic Incentives Act for the

Development of Puerto Rico,' or any similar provision of a prior law that substitutes it; and

(D) Machinery and equipment as well as parts, tools and components used in the repair, maintenance and conditioning of aircraft by holders of a tax exemption under Act No. 73-2008, as amended, or any similar provision in a prior or successor law.

(11) ...

...

(12) Items for treating Health Conditions.- Consist of:

(A) ...

...

(D) oxygen;

(E) any equipment for medical treatment that qualifies for partial or full reimbursement from Medicare, Medicaid, or the health insurance plan of the Commonwealth of Puerto Rico or under a health insurance contract or policy issued by a person authorized to underwrite healthcare services insurance or contracts in Puerto Rico; and

(F) any instrument, medical device, apparatus, a specialized implement, machine, contrivance, implant, in vitro reagent, or other similar or related item including a component, part, or accessory thereof, which is:

(i) Recognized in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, or any supplement to any of them;

(ii) Intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in human beings or in animals;

(iii) Intended to affect the structure or any function of the human or animal body, which does not achieve its primary intended purposes

through chemical action within or on the human body and which is not dependent on being metabolized for the achievement of its primary intended purposes; or

(iv) Regulated and approved by the U.S. Food and Drug Administration (F.D.A.) and registered in its webpage.

(13) ...

...

(51) Manufacturing Plant.- Includes any plant engaged in assembling or integrating goods or engaged in the transformation of raw materials into finished products that are different from their original state, including any factory that avails itself of any tax and industrial incentive laws existing in Puerto Rico, or any substitute thereof, and businesses engaged in the repair, maintenance and conditioning of aircraft covered by an exemption decree issued under Act No. 73 of May 28, 2008, known as the ‘Economic Incentives Act for the Development of Puerto Rico,’ or similar provision in a prior or successor law;

...

(58) Service.-

(A) Means any business, other than the sale of goods, carried out by a merchant including, but not limited to:

(i) ...

(ii) ...

(iii) Operating leases and regular motor vehicle rental which constitute a daily rental, as such term is defined by the Secretary; provided, that motor vehicle rentals that are essentially equivalent to a purchase, as provided in Section 1033.07(a)(3)(D), shall not be considered a service;

(iv) ...

...

(B) Service shall exclude the following:

(i) Services rendered by a person doing business in Puerto Rico to another person doing business in Puerto Rico; insofar as both belong to the same controlled group of corporations or a controlled group of related entities, as such term is defined in Sections 1010.04 and 1010.05 of this Code, except that, for these purposes the provisions of paragraph (2)(D) of subsection (b) of Section 1010.04 shall not be taken into account, or is a partnership or excluded member engaged in an income-producing trade or business in Puerto Rico, should the rules of group of related entities be applied, for purposes of this Act, would be considered a component member of such group, by another person that is part of one of said groups.

(ii) ...

(iii) ...

(iv) Right of use of intangible assets;

(v) Services rendered by a person engaged in trade or business or income-producing activities outside of Puerto Rico to an entity operating under the provisions of Act No. 73-2008, known as the 'Economic Incentives Act for the Development of Puerto Rico,' or similar provision in a prior or successor law; Act No. 83-2010, known as the 'Puerto Rico Green Energy Incentives Act,' or similar provision in a prior or successor law; or Act No. 20-2012, known as the 'Act to Promote the Export of Services' or similar provision in a prior or successor law; entities subject to the provisions of Act No. 55 of May 12, 1933, known as the 'Banking Law;' or entities organized or authorized under the National Bank Act, both of which belong to the same controlled group of corporations, or a controlled group of related entities, as such term is defined in Sections 1010.04 and 1010.05, or being one of them a partnership or excluded

member, should the rules of group of related entities be applied, for purposes of this subsection, would be considered a component member of the same group;

(vi) Sea, air, or ground transportation services, including charges directly related to sea, air, or ground delivery;

(vii) ...

(viii) Services rendered to any public or private entity whose Organic Act provides that it shall be exempt from all kinds of taxes and levies.

(C) ...

(59) ...

...

(64) Services for Export.- any service rendered for the benefit of a nonresident individual, insofar as the same have no connection with Puerto Rico. Exported services that are covered under a tax exemption decree issued under Act No. 20-2012, as amended, or similar provision in a prior or successor law, or under Act No. 73-2008, as amended, or similar provision in a prior or successor law, shall also be considered services for export, insofar as such services have no connection with Puerto Rico, as such term is defined in Act No. 20-2012.

(A) ...

(B) ...

(65) ...

(66) Designated Professional Services.- Means legal services and the following professional services, as regulated by their respective Boards of Examiners attached to the Department of State of Puerto Rico:

(A) ...

...

(G) Geologists;

(H) Engineers and Land Surveyors; and

(I) Services rendered by a ‘tax return, statement or refund claim specialist,’ as defined in Subtitle F of this Code, in relation to the preparation or revision of tax returns, statements, or refund claims in connection with the taxes imposed under this Code of the United States Internal Revenue Code.

(67) ...

...

(79) Services rendered to condominium residents’ associations or councils of co-owners or homeowners’ associations, as such term is defined in subparagraph (A) of paragraph (5) of subsection (a) of Section 1101.01 of this Code, for mutual benefit of its residents, as well as services rendered to housing cooperatives organized under Act No. 239-2004, as amended, known as the ‘General Cooperative Associations Act of 2004,’ and as defined in subparagraph (A) of paragraph (7) of subsection (a) of Section 1101.01 of this Code, provided, that eighty-five percent (85%) of the units of the association, council or cooperative are used for residential purposes. It includes, but is not limited to, maintenance, beautification, cleaning, and security services as well as accounting, administration and legal services.

(80) Services rendered to affordable housing projects that receive federal or state rental assistance; provided, that the residents thereof directly pay a maintenance fee. It includes, but is not limited to, maintenance, beautification, cleaning, and security services as well as accounting, administration and legal professional services.”

Section 25.- Paragraphs (15) and (22) are hereby amended and paragraphs (23), (24), (25), (26), (27), (28), (29), (30), (31), and (32) are hereby added to subsection (a) of Section 4120.03 of Act No. 1-2011, as amended, to read as follows:

“Section 4120.03.- Value-Added Tax Exempt Transactions.-

(a) The following transactions shall be exempt from the value-added tax:

(1) ...

...

(15) the sales of agricultural articles and services to *bona fide* farmers duly certified by the Department of Agriculture;

...

(22) legal services rendered by the members of the legal profession authorized by the Supreme Court of Puerto Rico to practice Law in Puerto Rico, or by an appropriate entity in a foreign jurisdiction, only with respect to the fees for services related to legal representation in the General Court of Justice, the US District Court for the District of Puerto Rico, the US Court of Appeals for the First Circuit, and the Supreme Court of the United States of America, or administrative agencies of the Government of Puerto Rico, legal advice and notary services, provided, that the services rendered by the members of the legal profession authorized by the Supreme Court of Puerto Rico to practice Law in Puerto Rico and those that may be provided by other professionals including, but not limited to: financial consulting services, lobbying, and processing services shall not be considered legal services;

(23) Services rendered to condominium residents’ associations or councils of co-owners or homeowners’ associations, as such term is defined in subparagraph (A) of paragraph (5) of subsection (a) of Section 1101.01 of this Code, for mutual benefit of its residents, as well as services rendered to housing cooperatives organized under Act No. 239-2004, as amended, known as the ‘General Cooperative Associations Act of 2004,’ and as defined in subparagraph (A) of paragraph (7) of subsection (a) of Section 1101.01 of this Code, provided,

that the eighty-five percent (85%) of the units of the association, council or cooperative are used for residential purposes;

(24) Services rendered to affordable housing projects that receive federal or state rental assistance; provided, that the residents thereof directly pay a maintenance fee;

(25) The retail sale of solar-electric equipment, provided that, for purposes of this paragraph, retail sale shall include the sale to a merchant who acquires such equipment to be used in his/her business.

(26) Services rendered for the repair, maintenance and conditioning of aircraft by holders of a tax exemption under Act No. 73-2008, as amended, or any similar provision in a prior or successor law; provided, that such services are included in the tax exemption decree of the holder;

(27) Toll manufacturing or contract manufacturing services; provided that the service provider holds a Tax Collection Exemption Certificate issued by the Secretary;

(28) Maintenance fees paid under a Vacation Club or Timeshare right in accordance with Act No. 252-1995, or any similar prior or successor law;

(29) Services rendered to a person engaged exclusively in storing (including leasing of tank containers) or processing fuel, jet fuel, aviation fuel, gas oil, diesel oil, crude oil, partially finished, finished oil by-products, or any other hydrocarbon blend mentioned in Subtitle C of this Code, insofar as the fuel storage or management is carried out in a foreign trade zone or subzone, as such term is defined in Section 3010.01(a)(16) of this Code. Provided, that this subsection shall not apply to a person engaged in the distribution and hauling of said products;

(30) Services rendered to a merchant engaged in the generation and sale of electric power at commercial scale.

(31) Services rendered to an entity engaged in the repair, maintenance and conditioning of aircraft (and parts and components thereof), provided, that such business holds an exemption decree issued under Act No. 73 of May 23, 2008 known as the ‘Economic Incentives Act for the Development of Puerto Rico,’ or similar provision in prior or successor law; and

(32) Services rendered to any public or private entity whose Organic Act provides that it shall be exempt from all kinds of taxes and levies.”

Section 26.- Clause (iii) is hereby amended and a new clause (iv) is hereby added to subparagraph (A), subparagraph (B) is hereby amended, clause (ii) of subparagraph (C) is hereby amended, and subparagraph (E) of paragraph (2) of subsection (a) of Section 4150.02 of Act No. 1-2011, as amended, is hereby amended to read as follows:

“Section 4150.02.- Credit for Paid Value-Added Tax.-

(a) Claim for Credit and limitation:

(1) ...

(2) Amount of Credit:

(A) Amount of Credit.- The amount of credit that, in accordance with the preceding paragraph, a merchant may be entitled to claim, shall be the sum resulting from the following items:

(i) ...

...

(iii) the amount of the Value-Added Tax determined by a merchant for receiving a service from a nonresident individual, as shown in the Value-Added Tax Monthly Return.

(iv) For purposes of this subparagraph, the Value-Added Tax paid in relation to the goods described in paragraph (9) of subsection (a) of Section 4120.03 of this Code, shall be considered directly paid Value-Added

Tax in relation to the sale of goods or the rendering of taxable services. Provided, that notwithstanding the provisions of this clause, the sale of such goods shall be deemed to be exempt under this Section.

(B) Indirectly Paid Tax Related to the Sale of Goods or the Rendering of Taxable Services.- In the event it cannot be determined whether the tax paid in any of the circumstances mentioned in subparagraph (A) above is directly related to a specific sale of goods or rendering of taxable services, said paid tax shall be deemed to be indirectly related to the sale of exempt goods for purposes of the Value-Added Tax, and therefore, shall not be credited. In these cases, the amount of the tax paid shall be prorated as provided in subparagraph (C) of this paragraph to determine the portion of the tax paid that may be credited.

(C) Tax Proration.- In order to determine the portion of the Value-Added Tax that is indirectly related to the sale of goods or the rendering of taxable services, the merchant shall:

(i) ...

(ii) Determine the portion of all his/her sales that constitutes a sale of goods or the rendering of taxable services; and

(iii) ...

(D) ...

(E) Notwithstanding the provisions of subparagraphs (C) and (D) above, merchants principally engaged in the sale of unprepared food or provisions and merchants principally engaged in the sale of prescription medications, medications or articles to treat health conditions, or merchants principally engaged in the wholesale or retail sale of goods that are subject to Sections 3020.06, 3020.07, 3020.07A, and 3020.08 of Subtitle C of this Code may claim a credit in the Value-Added Tax Monthly Return on account of the value-added tax paid or accumulated during the corresponding month up to the total

amount of the tax paid or accumulated during the month. For purposes of this paragraph:

(i) The term ‘principally’ means that, during the three (3) immediately preceding taxable years, the merchant entitled to claim this credit, had an average of seventy percent (70%) or more of his/her retail sales of unprepared food and provisions, of the wholesale or retail sale of prescription medication, medications or articles to treat health conditions (including medical devices) or the wholesale or retail sale of goods that are subject to Sections 3020.06, 3020.07, 3020.07A, and 3020.08 of Subtitle C of this Code;

(ii) the term ‘provisions’ excludes, the sale of appliances, toys, beauty, school, and office supplies, hardware, shoes, clothes, and alcoholic beverages; and

(iii) notwithstanding the provisions of clauses (i) and (ii) above, the term ‘merchant engaged in the retail sale of unprepared food and provisions shall include businesses commonly known as ‘Cash & Carry’ as such term is defined by the Secretary through official document.

(3) ...

(b) ...

(c) ...”

Section 27.- Subsections (b) and (c) of Section 4180.01 of Act No. 1-2011, as amended, are hereby amended to read as follows:

“Section 4180.01.- Transitory Provisions.-

(a) ...

(b) Credit available under Subtitle D of this Code.- Credits or overpayment arising under Subtitle D of this Code, or under Section 4120.01(a)(1) of this Code that have not been claimed as refund and that are available to the merchant as of the effective date of this Subtitle as shown in the Sales and Use Tax

Monthly Return that the merchant is required to file not later than the 20th day of the month corresponding to the effective date of this Subtitle, shall be used as credit in subsequent returns in chronological order beginning with the earliest, until the same are depleted. Provided, that the use of such credits shall not generate a refund.

(c) Administrative Determinations Issued and Final Agreements Entered Into under Subtitle D of this Code and Subtitle BB of the Internal Revenue Code of 1994.- Except as otherwise expressly provided in this Code, any administrative determination issued to or final agreement entered into with a businessperson under the provisions of Subtitle D of this Code or Subtitle BB of the Internal Revenue Code of 1994 that is similar to the provisions of this Subtitle and that affect the tax liability for a taxable event occurring after the effective date of this Subtitle shall be deemed to be issued or entered into under the corresponding provisions of this Subtitle. Provided, that the provisions of this subsection shall be effective once the merchant obtains from the Secretary an official document confirming that the administrative determination or final agreement shall continue in effect under this Subtitle. The Secretary shall prescribe by official document the procedure to be followed by the merchant to obtain the official document.”

Section 28.- Section 4180.02 of Act No. 1-2011, as amended, is hereby amended to read as follows:

“Section 4180.02.- Exclusion of Preexisting Contracts and Bids.-

(a) Sales covered by government contracts and public bids described in subsections (c) and (d) of Section 4070.01 of this Code shall be subject to the value-added tax at the same rate of the Sales and Use Tax applicable under said subsections. Provided, that said rate shall apply during the period of time provided in subsections (c) and (d) of Section 4070.01 that remains until the effective date of this Subtitle.”

Section 29.- Subsections (a) and (c) of Section 4210.01 of Act No. 1-2011, as amended, are hereby amended to read as follows:

“Section 4210.01.- Consumption Surtax - Sales Tax.-

(a) There shall be levied, collected, and paid, at the rate established in this Section and in addition to the sales and use tax established in Subtitle D of this Code, a tax on every sales transaction of a taxable item in Puerto Rico made after June 30, 2015, but before the effective date of Subtitle DD of this Code. The application of the tax shall be subject to the exemptions granted in Chapter 3 of Subtitle D of this Code.

(b) ...

(c) There shall be levied, collected, and paid a tax on business to business services and designated professional services as defined in Subtitle D of this Code rendered after September 30, 2015, but before the effective date of Subtitle DD of this Code. The applicable tax rate shall be four percent (4%). Provided, that the exceptions established in Chapter 3 of Subtitle D of this Code shall apply to the tax established in this subsection in the same manner as they would apply to taxable services under subsections (a) and (b) of this Section.

(d) ...”

Section 30.- Subsections (a) and (c) of Section 4210.02 of Act No. 1-2011, as amended, are hereby amended to read as follows:

“Section 4210.02.- Consumption Surtax - Use Tax.-

(a) There shall be levied, collected, and paid a tax at the rate established in this Section and in addition to the sales and use tax established in Subtitle D of this Code on the use, storage, or consumption of a taxable item in Puerto Rico made after June 30, 2015, but before the effective date of Subtitle DD of this Code, unless the taxable item has been subject to the sales and use tax under Sections 4020.01 and 4210.01 of this Code.

(b) ...

(c) There shall be levied, collected, and paid a tax on business to business services and designated professional services as defined in Subtitle D of this Code rendered after September 30, 2015, but before the effective date of Subtitle DD of this Code, insofar as the taxable item is not subject to the sales and use tax under Sections 4020.01 and 4210.01 of this Code. The applicable tax rate shall be four percent (4%). Provided, that the exceptions established in Chapter 3 of Subtitle D of this Code shall apply to the tax established in this subsection in the same manner as they would apply to taxable services under subsections (a) and (b) of this Section.

(d) ...”

Section 31.- Subsection (a) of Section 4210.03 of Act No. 1-2011, as amended, is hereby amended to read as follows:

“Section 4210.03.- Consumption Surtax - Value-Added Tax.-

(a) There shall be levied, collected, and paid, at the rates established in this Section and in addition to the Value-Added Tax established in Subtitle DD of this Code, a tax on every taxable item and taxable transaction as defined in Subtitle DD of this Code as of the effective date of Subtitle DD of this Code.

(b) ...

(c) ...”

Section 32.- Subsection (d) of Section 6043.04 of Act No. 1-2011, as amended, is hereby amended to read as follows:

“Section 6043.04.- For Failure to Remit Sales and Use Tax.-

(a) ...

...

(d) The Secretary may exempt from the penalty established herein, any person who shows that the noncompliance with the provisions of Section 4042.03 was due to circumstances beyond his/her control. For such purposes, the lack of funds of the merchant shall not be considered a circumstance out of the control of the person.”

Section 33.- A new Subchapter F is hereby added to Chapter 4 of Subtitle F of Act No. 1-2011, as amended, to read as follows:

“SUBCHAPTER F– VALUE-ADDED TAX

Section 6046.01.- Administrative Fines.-

(a) Failure to Display Registration Certificate and Small-business Registration Certificate.– Any merchant who violates the provisions of Section 4160.01 in relation to the Merchant Registration Certificate and Small-business Registration Certificate shall be subject to an administrative fine of up to one thousand dollars (\$1,000).

(b) Inappropriate Advertising.– Any merchant who fails to comply with the provisions of Section 4130.02(f), shall be subject to an administrative fine of not less than one thousand dollars (\$1,000) nor greater than twenty thousand dollars (\$20,000), to be determined by the Secretary based on the frequency, duration, or medium used for the advertisement or announcement, and the number of establishments to which it applies.

(c) Failure to Display the Value-Added Tax Separately or Failure to Display Announcement.– Any merchant who fails to comply with the provisions of Section 4130.02(c) shall be subject to an administrative fine of one hundred dollars (\$100) for each violation.

(d) Displaying a Forged Merchant Registration Certificate and Small-business Registration Certificate.— Any merchant who displays a forged merchant registration certificate shall be subject to an administrative fine of five thousand dollars (\$5,000) for each violation.

(e) Unauthorized Release of Imported Goods.-

1. The Secretary shall impose an administrative fine of five thousand dollars (\$5,000) for each violation on any person, including a merchant, who:

A. declares an amount of goods lower than that introduced;

or

B. declares a lower value than the value of the introduced goods; or

C. falsely or fraudulently claims an amount of credit or refund for taxes paid by a merchant as provided in Sections 4150.02, 4150.03, 4150.04, and 4150.05 of the Code.

2. Once a person, including a merchant, consignee, or carrier is authorized, whether directly or through his/her authorized representative, to move the container from the carrier's premises, he/she shall be responsible and be subject to a ten thousand dollar (\$10,000)-administrative fine for each violation, for breaking the seals, padlocks, locks, or labels of the container, if it was not broken in the presence of an customs officer of the Department or by express authorization through an official document of the Secretary.

(f) Refusal to Return Amount Collected in the Sale of Goods to an Internal Revenue Agent.- Any merchant or seller who refuses or declines to return to an Internal Revenue Agent any amount collected in the sale of goods or services to him/her, shall be subject to an administrative fine of two hundred and fifty dollars (\$250) for each violation.”

Section 6046.02.- Penalties Relating to Exemptions.-

(a) Fraudulent Exemption Claim.— Any taxpayer who fraudulently and with the intent to evade his/her tax liability furnishes to a merchant or to any agent of the Commonwealth of Puerto Rico, a Full Exemption Certificate, Exempt Purchase Certificate, Eligible Merchant Certificate, Zero-Rate Certificate of Exemption for Manufacturing Plants or any other documents that attest to his/her right to exemption or exception in relation to the tax on goods or services that is not intended for his/her use, shall be liable for the payment of taxes, interest, and surcharges, plus a penalty of two hundred percent (200%) of the tax on sales and goods for each certificate of any kind presented in the sale of a good or service.

(b) Fraudulent Credit or Refund Claim.— Any merchant who fraudulently and with the intent to evade his/her tax liability fraudulently claims a credit or refund under Sections 4150.02, 4150.03, and 4150.04 of Subtitle DD of this Code shall be liable, in addition to the payment of the tax, interest, and surcharges, for the payment of a penalty equal to double the credit or refund unlawfully claimed.

(c) Forgery of a Full Exemption Certificate, Exempt Purchase Certificate, Eligible Merchant Certificate, Zero-Rate Certificate of Exemption for Manufacturing Plants.— Any person who in any way forges a Full Exemption Certificate, Exempt Purchase Certificate, Eligible Merchant Certificate, Zero-Rate Certificate of Exemption for Manufacturing Plants or who knowingly holds any of the forged certificate mentioned above, shall be subject to a penalty of ten thousand dollars (\$10,000) for every forged certificate in his/her possession.

(d) For Failure to Require and Keep a Copy of the a Full Exemption Certificate, Exempt Purchase Certificate, Eligible Merchant Certificate, Zero-Rate Certificate of Exemption for Manufacturing Plants.— Any merchant who fails to require or keep a copy of the Full Exemption Certificate, Exempt Purchase Certificate, Eligible Merchant Certificate, Zero-Rate Certificate of Exemption for

Manufacturing Plants or any other document that attests to his/her right to exemption of the tax on sales and goods, or to claim a zero (0) rate, as provided in Sections 4120.01 and 4120.03, shall be liable for the payment of the tax, interest, and surcharges, plus a penalty of fifty percent (50%) of the tax.

(e) Failure to Notify Sale of a Taxable Good or Service or Subject to a Zero-Percent (0%) Rate, Failure to Require Proof of Payment of the Value-Added Tax or the Right to Exemption.- Any person who has availed him/herself of the exemptions or the zero-percent (0%) rate provided in Sections 4120.01 and 4120.03, and sells, transfers, or otherwise alienates the taxable good or service that enjoyed the exemption or exception granted and fails to comply with the provisions of Sections 4120.01 and 4120.03, shall be subject to a penalty of five hundred dollars (\$500) for each taxable good sold, transferred, or otherwise alienated.

(f) Failure to Pay the Value-Added Tax as a Result of Exemptions or the Application of the Zero-percent (0%) Rate.- Any person who acquires a good or service that enjoyed an exemption granted under Sections 4120.01 and 4120.03, and fails to pay taxes under the provisions of Sections 4120.01 and 4120.03, shall be liable for the payment of taxes and a penalty of fifty percent (50%) of Value-Added Tax.

Section 6046.03.- Penalties Relating to Registration and Required Documents.-

(a) Business Transaction Not Registered in the Merchant's Registry and the Small-business Registry.- Any merchant who fails to register as required in Section 4160.01 shall be subject to a penalty of up to ten thousand dollars (\$10,000).

(b) For Failure to Notify.- Any Puerto Rico resident subject to the notification requirement provided in Section 4110.01(a)(20)(E)(i) of this Code that fails to meet such requirement, shall be subject to a penalty of up to ten thousand dollars (\$10,000).

(c) For Selling, Assigning, Transferring, or Otherwise Conveying the Merchant's Registration Certificate and the Small-Business Registration Certificate.- Any merchant who violates the provisions of Section 4160.01(c) shall be subject to a penalty of five thousand dollars (\$5,000) for every sale, assignment, transfer or conveyance of a certificate.

(c) For Providing False Information.- Any merchant who knowingly furnishes false information on the application required in Section 4160.01(a) shall be subject to a penalty of five thousand dollars (\$5,000).

(d) For Failure to Notify Changes or Amendments to the Information Required and Others.- Any merchant who violates the provisions of Section 4160.01(e) shall be subject to a penalty of five hundred dollars (\$500).

(e) Forgery of the Merchant's Registration Certificate and the Small-Business Registration Certificate.- Any person who in any way forges a Merchant's Registration Certificate or a Small-Business Registration Certificate or who knowingly holds a fraudulent a Merchant's Registration Certificate or a Small-Business Registration Certificate shall be subject to a penalty of ten thousand dollars (\$10,000) for each Merchant's Registration Certificate or Small-Business Registration Certificate forged or in his/her possession.

Section 6046.04.- Penalty For Failure to Remit Value-Added Tax.-

(a) Any person who, in violation of the provisions of Section 4142.04 and 4142.05, fails to remit the Value-Added Tax in the manner and on the date established herein, shall be subject to a penalty of not less than twenty-five percent (25%) nor greater than fifty percent (50%) of the deficiency, as determined.

(b) As for repeat offenses, the penalty provided herein shall be one hundred percent (100%) of the amount of the deficiency, as determined.

(c) For purposes of this subsection, the term ‘deficiency’ shall mean the amount by which the amount of the tax that should have been deposited exceeds the amount, if any, of the tax that was deposited on the due date set therefor.

(d) The Secretary may exempt from the penalty established herein, any person who shows that failure to comply with the provisions of Section 4142.04 was due to circumstances beyond his/her control.

Section 6046.05.- Penalty for Failure to File the Declaration of Imports, the Monthly Tax Return on Imports, the Monthly Value-Added Tax Return or Annual Small Business Information Return.–

(a) Any person required to file the Declaration of Imports, the Monthly Tax Return on Imports, the Monthly Value-Added Tax Return or Annual Small Business Information Return in accordance with Section 4141.02 that fails to file such required declarations or returns in the form, manner and on the date established therein, shall be imposed a penalty of one hundred dollars (\$100) or ten percent (10%) of the tax liability established in such return or declaration, whichever amount is greater.

(b) Any person required to file the Declaration of Imports, the Monthly Tax Return on Imports, the Monthly Value-Added Tax Return or Annual Small Business Information Return electronically that fails to file such return by such means shall be deemed to have failed to file such return or declaration; therefore, he/she shall be subject to the penalties provided in this subsection (a) of this Section.

(c) For purposes of this Section, the term ‘tax liability’ means the amount of taxes to be paid together with such tax return, without reduction by virtue of any payment or deposit made or remitted to the Secretary.

(d) The Secretary may exempt from the penalty established herein when it is shown that such omission or error is due to a reasonable cause.

Section 6046.06.— Penalties for Violations of Other Provisions.—

(a) Undue Collection of the Value-Added Tax.— Any merchant who withholds the Value-Added Tax in excess of what is required in Section 4130.02, shall be subject to a penalty of one hundred dollars (\$100) for each receipt, invoice, voucher, or other proof of sale.

(b) Failure to Keep Documents.—

1. Any merchant who fails to meet the requirements of Section 4130.02 shall be subject to a penalty of up to twenty thousand dollars (\$20,000) for each violation.

2. Any merchant or buyer who fails to meet the requirements of Section 4170.02 shall be subject to a penalty not greater than five hundred dollars (\$500) for each violation.

(c) Any merchant or person who in any way refuses to have installed, either by the Secretary or his/her authorized representative, or to allow the use of a fiscal terminal, application, or other electronic medium, or who disconnects, removes, alters, destroys, modifies, manipulates, or intervenes with a fiscal terminal, application, or other electronic medium, or who in any way obstructs the inspections or oversight operations conducted by the Secretary or his/her authorized representative under the authority provided by Section 4120.02(a)(3), 6054.01(a)(2)(C), and 6054.01(a)(4) of the Code, shall, in addition to any other penalty provided in this Code and any offense classified under this Code or the Penal Code, be imposed a penalty of up to twenty thousand dollars (\$20,000) for each violation, unless it is due to a reasonable cause.

(d) Any merchant or person who fails to comply with the notifications required by Section 4110.01(a) of this Code shall, in addition to any other penalty provided in this Code and any offense classified under this Code or the Penal Code, be imposed a penalty of up to twenty thousand dollars (\$20,000) for each violation, unless it is due to a reasonable cause.

Section 6046.07.- Limitations on Credits or Refunds.-

Unless a credit or refund claim is filed by the taxpayer within a term of four (4) years following the date on which the Value-Added Tax is paid, no credit or refund shall be granted or made after the expiration of the aforementioned term. For purposes of this Section, the tax shall be deemed to be paid on the date the payment was issued or on the due date to file the corresponding return, as applicable, whichever is later.

Section 6046.08.-Penalties for Violations of the Provisions of the Account Statement and of the Debit or Credit Memos of Subtitle DD.-

(a) Penalty for Filing an Incorrect Account Statement and Debit and Credit Memos.- Any merchant who, in violation of the provisions of Section 4130.02 of the Code, unduly adjusts the Account Statement and Debit and Credit Memos in relation to the value-added tax in accordance with said Section, shall be subject to a penalty equal to twenty-five percent (25%) of the unduly adjusted amount.

(b) Penalty for Failing to Furnish an Account Statement and Debit and Credit Notes.- Any merchant who fails to furnish to a merchant-buyer an Account Statement or a Debit or Credit Memo in accordance with the provisions of Section 4130.02, shall be penalized by a fine equal to one thousand dollars (\$1,000) for every document that he/she fails to furnish. The Secretary may exempt from the penalty established herein, if it is shown that such omission or error is due to a reasonable cause.

Section 6046.09.- Tax Deficiency and Penalty for Unduly Claiming Credit for the Value-Added Tax.-

(a) Any merchant who, in violation of the provisions of Section 4150.02 of the Code, unduly claims, including, among others, a violation of Section 4150.04 a credit for paid Value-Added Tax, shall have such credit eliminated. Such merchant shall be responsible for the payment of the tax deficiency resulting from the elimination of the unduly claimed credit, plus interest and surcharges and a penalty equal to twenty-five percent (25%) of the tax deficiency.

(b) For purposes of this subsection, the term ‘deficiency’ shall mean the amount by which the amount of the tax that should have been deposited exceeds the amount, if any, of the tax that was deposited on the due date set therefor.”

Section 34.- Subsection (a) of Section 6051.07 of Act No. 1-2011, as amended, is hereby amended to read as follows:

“Section 6051.07.- Final Agreements.-

(a) Power.- The Secretary or his/her authorized representative is hereby empowered to enter into written agreements with any person concerning the liability of such person, or of the person or estate on behalf of which he/she is acting, related to any taxes imposed by this Code for any taxable period. Provided, that in a Final Agreement, the Secretary shall not:

(1) accept, after June 30, 2016, payment of future taxes that are not owed by the taxpayer at the time of the execution of the final agreement;

(2) grant or apply to a transaction covered by the final agreement preferential rates or lower rates than those established by this Code or in any special law applicable thereto;

(3) grant or apply deductions or tax credits that are not allowed under this Code or any applicable special law;

- (4) classify or apply as overpayment an amount other than previously paid taxes;
- (5) extend limitation periods, except as allowed in this Code;
- (6) cancel interests or surcharges, except as allowed in this Code;
- (7) modify the basis or the amount of the gain on the sale of assets, in a manner that is contrary to the provisions of this Code;
- (8) exempt from the requirement of filing returns, unless the return is part of or accompanies the final agreement; or
- (9) execute agreements regarding matters or issues over which he/she is not expressly authorized to exercise discretion.

(b) ...”

Section 35.- Subsection (a) of Section 6080.14 of Act No. 1-2011, as amended, is hereby amended to read as follows:

“Section 6080.14.- Imposition of Sales and Use Tax by Municipalities.-

(a) Authorization and Mandatory Requirement.- Beginning on February 1, 2014, all municipalities shall uniformly and mandatorily impose a sales and use tax on a taxable item pursuant to the authorization established in Section 4020.10. Such tax shall be at a fixed tax rate of one percent (1%), which shall be collected by the municipalities. The one percent (1%)-tax rate shall be imposed on the sales and use of a taxable item in accordance with the same basis, exemptions, and limitations provided in Subtitle D of the Code, except for the exceptions provided in this Section. Provided, that the one percent (1%) fixed tax rate to be collected by the municipalities, as provided in this subsection, shall not apply to business to business services nor to designated professional services. Such services shall be subject, after October 1, 2015, only to the four percent (4%) tax rate provided in Sections 4210.01(c) and 4210.02(c) of this Code through the effective date of said tax. As of the effective date of Subtitle DD of the Code, said services shall be

subject only to the value-added tax rates provided in Sections 4120.01 and 4210.03 of this Code.

For periods beginning as of July 1, 2014, the one percent (1%) fixed tax rate shall be collected in its entirety by the municipalities or by a trustee to be designated in accordance with this Act.

(1) ...

(b) ...

...”

Section 36.- Paragraph (1) of subsection (a) of Section 6.08 of Act No. 255-2002, as amended, is hereby amended to read as follows:

“Section 6.08.- Tax Exempt.-

(a) General Rule.- Except as provided in subsection (b) of this Section:

(1) Cooperatives, their subsidiaries or affiliates, as well as the income from all their activities or operations, all their assets, capital, reserves, and surplus, and those of their subsidiaries or affiliates, shall be exempt from any type of income, property, and excise taxes, as well as license fees or any other levy imposed or to be imposed in the future by the Commonwealth of Puerto Rico, or any political subdivision thereof, except for the Sales and Use Tax established in Sections 4020.01 and 4020.02, the tax authorized by Section 6080.14, the taxes imposed under Sections 4210.01, 4210.02 and 4210.03, the Value-Added Tax established in Section 4120.01, and excise taxes imposed under Chapter 2 of Subtitle C of Act No. 1-2011, as amended.

(2) ...

(b) ...

...”

Section 37.- Subsection (c) of Section 23.0 of Act No. 239-2004, as amended, is hereby amended to read as follows:

“Section 23.0.- Tax Exemption.-

(a) ...

(b) ...

(c) Cooperatives, their subsidiaries or affiliates, as well as the income derived from their activities and operations, all of their assets, capital, reserves, and surplus, and those of their subsidiaries or affiliates shall be exempt from all types of income, property and excise taxes, as well as license fees and any other levy imposed or to be imposed in the future by the Commonwealth of Puerto Rico or any political subdivision thereof, except for the Sales and Use Tax established in Sections 4020.01 and 4020.02, the tax authorized by Section 6080.14, the taxes imposed under Sections 4210.01, 4210.02 and 4210.03, the Value-Added Tax established in Section 4120.01, and excise taxes imposed under Chapter 2 of Subtitle C of Act No. 1-2011, as amended, known as the ‘Internal Revenue Code for a New Puerto Rico.’”

Section 38.- Sections 1 and 3 of Act No. 42-2015, as amended, are hereby amended to read as follows:

“Section 1.- It is hereby provided that any natural or juridical person rendering services for which a license or legal authorization is required shall provide at least two (2) payment alternatives to his/her clients such as credit or debit cards, cash, checks, certified checks, money orders, electronic fund transfer, online payment, or automatic payment. Provided that, at least one of the two (2) alternatives shall be credit or debit card, electronic fund transfer, online payment, or automatic payment.

Section 3.- Any person who violates the provisions of this Act shall be guilty of a misdemeanor and, upon conviction, shall be punished, for the first violation,

by a fine of not less than five hundred dollars (\$500) nor more than three thousand dollars (\$3,000). Subsequent violations shall entail a fine of not less than five thousand dollars (\$5,000) nor more than ten thousand dollars (\$10,000). In addition, the Secretary of the Department of the Treasury or the Secretary of the Department of Consumer Affairs may impose administrative fines of not less than one thousand dollars (\$1,000) nor more than five thousand dollars (\$5,000) for violations of the provisions of this Act. The administrative fine imposed for the violations provided in this Section shall be consistent with the penalties or fines that, in such case, would apply for violations of the Internal Revenue Code of 2011.”

Section 39.- Severability.-

If any article, provision, paragraph, subsection, clause and sub clause or part of this Act were held to be null or unconstitutional by a competent court, said holding shall not affect, impair or invalidate the remaining provisions of this Act.

Section 40.– Effectiveness.

This Act shall take effect immediately after its approval.

CERTIFICATION

I hereby certify to the Secretary of State that the following **Act No. 159-2015 (S. B. 1433 Conference)** of the **6th Regular Session** of the **17th Legislative Assembly of Puerto Rico**:

AN ACT to amend Sections 1022.03, 1023.25, 1033.14, 1033.17, 1034.01, 1040.06, 1051.13, 1061.15, 1101.01, 1102.06, 1115.02, 3020.07, 3020.07A, 3030.15, 3060.11, 4010.01, 4020.01, 4020.02, 4020.04, 4030.20, 4050.09, 4070.01, 4110.01, 4120.03, 4150.02, 4180.01, 4180.02, 4210.01, 4210.02, 4210.03, 6043.04, 6051.07, and 6080.14, and add a new Section 1051.14 and a new Subchapter F to Chapter 4 of Subtitle F of Act No. 1-2011, as amended; amend paragraph (1) of subsection (a) of Section 6.08 of Act No. 255-2002, as amended; etc.

has been translated from Spanish to English and that the English version is correct.

In San Juan, Puerto Rico, on this 16th day of December, 2015.

Juan Luis Martínez Martínez
Director